

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 NOV 20 PM 1: 17

To: Office of the City Administrator
Attn: Dan Lindheim
From: Police Department
Date: December 12, 2008

**Re: An Informational Report Detailing the Enforcement of Oakland
Municipal Code Sections Prohibiting Illegal Street Vendors, Including
Statistical Data, and Identifying Gaps in Services**

SUMMARY

As the law enforcement arm of the City, the Oakland Police Department (OPD) is responsible for enforcing the laws of the State of California as well as the municipal codes of the City of Oakland. As requested by the Rules and Legislation Committee, staff has prepared this informational report detailing the enforcement of Oakland Municipal Code (O.M.C.) sections prohibiting illegal street vendors, which includes statistical data, and identify gaps in services.

FISCAL IMPACT

This is an informational report only. No action is requested of the Council and no fiscal impact is included.

BACKGROUND

Enforcement

Generally speaking, OPD addresses violations of the law as a result of citizen complaints or self-initiated activities, which include instances involving illegal street vendors. When the Department is aware of such violation(s), its member(s) will conduct a preliminary investigation, which may result in the suspected violator(s) receiving a warning, citation, or arrest at the officer's discretion and depending on the circumstances.

Statistical Data

Applicable OMC Sections:

- 5.04.020 Business Tax
- 5.48.020 Peddlers and solicitors – Police certificate
- 5.48.050 Peddling foodstuffs from vehicles
- 5.48.070 Peddlers' carts, stands
- 5.48.080 Peddling in certain district

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The information presented below reflects data studied on the above O.M.C. sections over a 24 month period, between the months of July 2006 and June 2008.

Warnings Issued

The current records management system does not track warnings issued to suspected violators of the aforementioned violations.

Citations Issued

OPD issued a total of 32 citations for violations of the aforementioned municipal codes during the reporting period; citations were written in all three geographic police areas of the City:

- 9 were written in Area One,
- 5 were written in Area Two, and
- 18 were written in Area Three.

The citations were issued evenly throughout the eight quarters studied, except for the 4th quarters (2006 and 2007), which accounted for 13 of the 32 total citations. For example, the 1st quarters (2007 and 2008) accounted for 7 citations, the 2nd quarters (2007 and 2008) accounted for 4, and the 3rd quarters (2006 and 2007) accounted for 8 citations.

These types of violations are similar in nature to traffic violations in that the violator receives a court date where he/she can attend to contest the violation or pay a fine for the violation. Fines for these violations begin at \$100 and go progressively higher for subsequent offenses.

Of the 32 citations referenced in this report, 6 were convictions, 16 arrest warrants were issued, 1 was dismissed, and 9 have no information on file¹.

Arrests Made

There were 2 physical arrests made which resulted in convictions.

KEY ISSUES AND IMPACTS

A key issue behind the relatively low number of enforcement actions initiated for the aforementioned O.M.C. sections is primarily due to the lack of police resources and other higher priority calls for service. Generally, O.M.C. related calls are classified as priority #3 by the Communications Division (#1 being high priority).

¹ These statistics were obtained from Alameda County, which maintains statistics for all citations written by all law enforcement agencies in the County.

For example, OPD's Alcoholic Beverage Action Team (ABAT) deals with alcoholic beverage establishments; and another team designated to address prostitution and human trafficking related crimes. However, there is no specialty unit within OPD to deal with illegal vendors. A Patrol beat officer may open a Beat (S.A.R.A.²) project if he/she deems it a problem that attracts crime or blight on their beat, or if the neighborhood group (i.e., Merchant Association, Neighborhood Crime Prevention Council) brings it to the Department's attention and specifically requests police action.

The following steps are deliverable strategies OPD can utilize should additional enforcement activities be requested:

- The Neighborhood Services Coordinators and/or the Problem Solving Officers (PSOs) to provide education to the illegal vendors;
- Refresher training to OPD field staff on the above referenced OMC sections;.
- PSOs to assess if his/her respective beat has an illegal vendor issue through day-to-day observation, researching crime statistics to determine if there is a nexus between criminal activities and the presence of the illegal vendors, and the presence/absence of community complaints; and
- Progressive enforcement (education/warning, citation, arrest).

SUSTAINABLE OPPORTUNITIES

Economic: Enforcement of the code sections governing illegal street vendors will help eliminate the nuisance and help promote legal economic activities in the City, providing an opportunity to local merchants to increase their consumer base and add to the overall economy of the City.

Environment: There are no environmental opportunities identified in this report.

Social Equity: By removing illegal street vendors from the streets of Oakland, public safety is enhanced and neighborhoods are removed from the blight and other community problems associated with these violations.

DISABILITY AND SENIOR ACCESS


There are no ADA or senior citizen access issues identified in this report

² *S.A.R.A.* is the problem solving model utilized at OPD and it stands for Scanning, Analysis, Response, and Assessment.

RECOMMENDATION

Staff recommends acceptance of this report.

Respectfully submitted,


FOR Wayne G. Tucker
Chief of Police

APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:


Office of the City Administrator

Prepared by:
Lt. Peter Lau
Patrol Division
Oakland Police Department

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